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EXAMINER

EDWARDS, LAURA ESTELLE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN R. JACOBSON and
RUSSELL P. HAZARD

Appeal 2008-3155
Application 09/808,584
Technology Center 1700

Decided: December 9, 2008

Before CHARLES F. WARREN, THOMAS A. WALTZ, and
JEFFREY T. SMITH, *Administrative Patent Judges*.

WALTZ, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

This is a decision on Appellants' Request for Rehearing pursuant to 37 C.F.R. § 41.52(a)(1) (hereafter "Req."), timely filed on October 16, 2008, requesting rehearing of our Decision decided on September 29, 2008 (hereafter "Dec."), where this merits panel affirmed all rejections on appeal, namely the rejection of claims 1-9, 19-24, 29-31, 35, and 57 under 35 U.S.C.

§ 103(a) over Jonkers in view of Jaffa and the rejection of claims 32-34 under 35 U.S.C. § 103(a) over Jonkers, Jaffa, and Kirk-Othmer (Dec. 4).¹

Appellants contend that the Board has misunderstood the nature of the dispute and misapprehended the requirements of claim 1. Specifically, Appellants contend that the issue was whether the stencil of Jonkers transfers a coating composition to an article, and the Board has not issued a finding of fact as to this issue (Req. 2). Appellants further contend that claim 1 on appeal requires the applicator to transfer the coating composition to an article, and the Board has found that the squeegee of Jonkers transfers the coating composition to an article, not the stencil (*id.*, citing FF (1) from the Dec.). Appellants assert that the coating composition of Jonkers is not applied to the stencil and then transferred from the stencil to a web (Req., sentence bridging 2-3). Appellants assert that the coating composition of Jonkers is applied directly to the web by the squeegee (Req. 3). Accordingly, Appellants contend that Jonkers fails to teach or suggest a required element of the coating apparatus of claim 1, i.e., an applicator that transfers a coating composition to an article (*id.*).

We do not find Appellants' contentions persuasive of error in our Decision. We find that many of Appellants' contentions presented in the Request have previously been made and addressed in our Decision (Dec. 3 and 6-7). We further find that Appellants do *not* dispute our claim interpretation as set forth in the Decision, namely that "an applicator is any device that lays or spreads a substance upon another material or substrate" (Dec. 6). In view of this claim interpretation, we found that the stencil disclosed by Jonkers delivers or lays material onto the web material below it,

¹ A listing of the named references may be found on page 2 of the Decision.

and thus this stencil constitutes an applicator within the ordinary meaning of that word (Dec. 7, *citing* FF (1)). Thus, we find that the squeegee of Jonkers acts on the coating composition delivered onto the stencil, and the coating composition is then transferred through the stencil (by action of the pressure and nip angle of the brushing edge 4 of the squeegee) to the web below (Dec. 7; FFs (1) and (2)). Contrary to Appellants' contention that the Board has not addressed the issue of whether the stencil of Jonkers transfers a coating composition to a web (Req. 2), we determine that this issue has been directly addressed in our Decision as discussed above. Contrary to Appellants' contentions that the squeegee of Jonkers transfers the coating composition to the article, and the coating composition is not applied to the stencil and then transferred from the stencil to a web (Req. 2-3), we have determined that the squeegee presses a dyepaste (coating composition) through a stencil for printing a web, with an amount of the dyepaste delivered to the web depending on the nip angle and contact pressure of the tip of the squeegee, and thus the squeegee cooperates with the stencil to apply the coating composition to the web (Dec. 4 and 7; FFs (1) and (2)).

As discussed in our Decision (Dec. 7), the claims are directed to an *apparatus*, and the functional language asserted for patentability² does not distinguish over the *structure* disclosed by Jonkers. Representative claim 1 on appeal recites an apparatus including an applicator (construed as corresponding to the stencil of Jonkers; Dec. 7); a conveyor (shown as conventional by Jaffa and not disputed by Appellants; Dec. 7), and a metering bar (corresponding to element 4 of Jonkers, the brushing edge of

² This functional language is “to meter a predetermined amount of coating composition to said applicator for transfer to an article transported to said applicator by said conveyor” (*see* claim 1 on appeal).

the squeegee; Dec. 7). As discussed in the Decision, the corresponding structure of Jonkers is arranged to have the metering bar positioned against the applicator forming a nip angle, with the metering bar capable of metering a predetermined amount of coating composition as required by claim 1 on appeal (Dec. 7). Accordingly, we determine that the dyepaste (coating composition) of Jonkers is delivered to the stencil and then transferred by the pressure of element 4 (i.e., the metering bar) of the squeegee from the stencil to the web material below.

For the foregoing reasons and those expressed in our Decision, we have considered Appellants' Request for Rehearing but find no points that we have misapprehended or overlooked. Therefore, the Request for Rehearing is DENIED.

Appeal 2008-3155
Application 09/808,584

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED

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